In reviewing the materials from the meetings of January 12, 1998 and June 21, 1999, it is clear that each page of the material was marked "ASF Confidential". Further, as noted in the response filed by Applicants' previous Counsel on September 26, 2002, the presentations were made at the offices of Applied Science Fiction (the Applicants), and the attendees at the meetings were all subject to a non-disclosure agreement. Therefore, there were clear limitations, restrictions or obligations of secrecy placed by the Applicants on the presentation material. Further, the non-disclosure agreement along with the place of the presentation are considered as evidence of the amount of control the Applicants retained over the presentation material.

Therefore, the presentation material does not constitute public use activity barring a patent under 35 U.S.C. 102(b).

With respect to an on sale bar, this is triggered when the invention is the subject of a commercial offer for sale, (see Pfaff v.Wells Elecs., Inc., 525 U.S. 55, 67, 48 USPQ2d 1641-47 (1998). Traditional contract law principles are applied when determining whether a commercial offer for sale has occurred (see Linear Tech Corp. v. Micrel, Inc., 275 F. 3d 1040, 1048, 61 USPQ 2d 1225, 1229 (Fed. Cir. 2001), petition for cert. filed, 71 USLW 3093 (Jul. 03, 2002) (No. 02-39). Essentially, a sale is a contract between parties wherein the seller agrees "to give and to pass rights of property" in return for a buyer's payment or promise "to pay the seller for things bought or sold" (see In re Caveney, 761 F. 2d 671, 676, 226 USPQ 1, 4 (Fed. Cir. 1985). Further, a contract for the sale of goods requires a concrete offer and acceptance of that offer (see, for example, Linear Tech., 275 F. 3d at 1052-54, 61 USPQ 2d at 1233-34). As a further note, only "an offer which rises to the level of a commercial offer for sale, one which the other party could make into a binding contract by simple acceptance (assuming consideration), constitutes an offer for sale under 35 U.S.C. 102 (b)". (see Group One Ltd., v. Hallmark Cards, Inc., 254 F. 3d 1041, 1048, 59 USPQ 2d 1121, 1126 (Fed. Cir. 2001).

From a review of the materials of January 12, 1998 and June 21, 1999, it is apparent that there was no offer for sale evident in these materials. Further there is no evidence in these materials that an opportunity for an offer for sale and acceptance of the offer had occurred.

Therefore, based on the above, the presentations of January 12, 1998 and June 21, 1999 do not constitute an offer for sale under the statute.

Accordingly, in view of the above, the rejection of claims 1-95 under 35 U.S.C. 102(b) based on the public use or sale of the invention is improper.

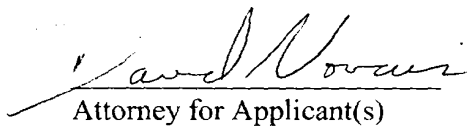
Applicants' present Counsel also wish to comment on a statement made by Applicants' previous Counsel in a response filed on December 13, 2002. In

the response of December 13, 2002, Applicants' previous Counsel made reference to a relationship between Hewlett Packard and Eastman Kodak Company and indicated that the "invention disclosed in this application were presented to Hewlett Packard during a meeting in January 1999". Applicants' previous Counsel also alleged without supporting evidence that "at that time Hewlett Packard and Eastman Kodak Company were in joint venture together" and that the Applicant "believes the information disclosed at this meeting resulted in Hewlett Packard disclosing said information to Kodak". Applicants' previous Counsel further alleges without supporting evidence that "Applicants believe the Manico patent discloses information conceived from the meeting between Hewlett Packard and Applied Science Fiction".

Applicants' present Counsel has reviewed this issue and after a reasonable investigation has concluded that Eastman Kodak Company did not file information in a patent (specifically the Manico Patent No. 6,174,094) that was conceived from meetings between Hewlett Packard and Applied Science Fiction as alleged in the December 13, 2002 response.

In view of the foregoing comments, it is submitted that the inventions defined by claims 1-95 are patentable, and a favorable reconsideration of this application is therefore requested.

Respectfully submitted,



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